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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,449	05/05/2008	Arnaud Premartin	285482US6X PCT	4446
22850	7590	04/11/2011	EXAMINER	
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				WAGGENSPACK, ADAM J
ART UNIT		PAPER NUMBER		
3782				
NOTIFICATION DATE			DELIVERY MODE	
04/11/2011			ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/567,449	PREMARTIN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	ADAM WAGGENSPACK	3782

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 07 February 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 20-37 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 20-25 and 27-37 is/are rejected.  
 7) Claim(s) 26 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 25 March 2008 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>5/3/06</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Priority***

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. 119 as follows:
2. Acknowledgment is made of applicant's claim for foreign priority based on applications filed in Europe on 7/11/03, 2/25/04, and 2/25/04. It is noted, however, that applicant has not filed a certified copy of the 03291731.2, 04290509.1, or 04290510.9 application as required by 35 U.S.C. 119(b).

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

#### With Respect to Claim 35

The phrase "preferably" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). For the purposes of examination on the merits, Examiner takes the limitations following the phrase to not be part of the claimed invention, as "preferably" indicates that other options are possible.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 20-25 and 27-37 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent #5,794,828 to Colan (Colan). Colan discloses:

With Respect to Claims 20 and 37

A loading frame (20); and a supporting arch (formed by 22, FIG. 1) extending as claimed (FIG. 1), said supporting arch being divisible into first and second arch parts (22), each of which is pivotally coupled to the loading frame such that when divided each arch part is configured to be pivoted to a storage position as claimed (Col. 3 lines 46-59, FIG. 1 shows one set of arch parts in the stowed position), wherein the arch parts are configured to be interlocked substantially directly to each other into an in-use position (FIGS. 1-3) in which they substantially alone form the supporting arch.

With Respect to Claim 21

When unlocked from the in-use position, the arch parts are substantially immediately pivotable, by a single movement for each, into their respective storage positions.

With Respect to Claims 22

The pivotal coupling is configured such that the arch parts, when they are pivoted, are shiftable laterally relative to each other (inasmuch as if one is pivoted first,

part of it will shift laterally with respect to the other; alternately inasmuch as they can pivot in either direction, one could be pivoted in one direction and the other in the opposite direction, resulting in such a lateral shift) by such a distance that said arch parts are pivotable without giving rise to pivot-blocking contact therebetween (inasmuch as no such pivot-blocking contact occurs when they pivot).

With Respect to Claim 23

The lateral shift is implemented automatically when the arch parts are pivoted (as it automatically occurs if they are pivoted as described above).

With Respect to Claim 24

Each arch part is configured to shift laterally away from other arch parts when pivoted (inasmuch as if one is pivoted first, part of it will shift laterally with respect to the other; alternately inasmuch as they can pivot in either direction, one could be pivoted in one direction and the other in the opposite direction, resulting in such a lateral shift)

With Respect to Claim 25

The pivotal coupling comprises a cam or groove (apertures 201) and follower (pin 212 is a follower inasmuch as it will follow the open area of aperture 201 when placed within it) mechanism.

Alternately, the notch (204) is a groove and the coupling element (210) is a follower inasmuch as it follows the direction of the notch.

With Respect to Claim 27

When the arch parts are in their storage positions, they occupy substantially the same height as the loading frame (FIG. 1).

With Respect to Claim 28

When the arch parts are in their storage positions, they lie at least partially on top of the loading frame (FIG. 1).

With Respect to Claim 29

The arch parts are configured to be interlocked directly to each other by closure of a manually operable coupling (90, 94, 96, 72, 74, FIGS. 2 and 3) that comprises a first coupling part (90, 94, 96) integrated with said first arch part and a second coupling part (72, 74, 90, 96) configured to cooperate with said first coupling part and integrated with said second arch part (FIGS. 2 and 3).

With Respect to Claim 30

The coupling comprises a manually operable quick-release coupling (94).

With Respect to Claim 31

The coupling is configured for tool-free locking or unlocking (via knob 94).

With Respect to Claim 32

The coupling comprises a screw joint (FIGS. 2 and 3).

With Respect to Claim 33

The screw joint comprises a male portion (86) integrated with one said arch part and a female portion (94) integrated with another said arch part, the female portion being configured as claimed (FIGS. 2 and 3).

With Respect to Claim 34

The screw joint comprises a male portion (86) integrated with one said arch part and a female portion (94) integrated with another said arch part, the female portion comprising a hand-grip (94) for manual twist release of said screw joint (FIGS. 2 and 3).

With Respect to Claim 35

The arch parts and loading frame comprise hollow (FIGS. 1, 4-6, and 10) and preferably tubular members (FIGS. 1 and 4-6 show that the arch parts are hollow tubular members).

With Respect to Claim 36

The load carrier comprises a bicycle carrier (FIG. 1).

***Allowable Subject Matter***

7. Claim 26 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM WAGGENSPACK whose telephone number is (571)270-7418. The examiner can normally be reached on M-F 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. W./  
Examiner, Art Unit 3782

/Justin M Larson/  
Primary Examiner, Art Unit 3782  
4/5/11